

Assembly Joint Resolution

No. 49

Introduced by Assembly Member Nation

March 29, 2006

Assembly Joint Resolution No. 49—Relative to pharmaceutical advertisements.

LEGISLATIVE COUNSEL'S DIGEST

AJR 49, as introduced, Nation. Direct-to-consumer prescription drug advertisements.

This measure would request that the United States Food and Drug Administration aggressively monitor and regulate direct-to-consumer advertising of prescription drugs by pharmaceutical companies, and would memorialize the President and the Congress to ~~limit~~ *ban* that advertising, ~~unless certain conditions are met~~.

Fiscal committee: no.

- 1 WHEREAS, The United States is one of just a few countries
2 that allow pharmaceutical companies to advertise prescription
3 drugs; and
4 WHEREAS, Direct-to-consumer prescription drug advertising
5 is a category of promotional information about specific drug
6 treatments that is provided directly to consumers by or on behalf
7 of drug companies; and
8 WHEREAS, Direct-to-consumer prescription drug advertising
9 is not necessary in order for pharmaceutical companies to sell
10 their products; and
11 WHEREAS, Since pharmaceutical companies have been
12 allowed to broadcast advertisements that mention a prescription

1 drug by name without disclosing all of the risks of that
2 medication, consumer demand for prescription medications has
3 increased, resulting in a corresponding increase in the cost of
4 prescriptions and of health care delivery; and

5 WHEREAS, While the pharmaceutical community has tried to
6 convince the public, Congress, and the United States Food and
7 Drug Administration (hereafter the FDA) that direct-to-consumer
8 prescription drug advertisements are educational, rather than
9 promotional, the actual goal of the advertisements is not to
10 educate the public, but rather to ensure that patients walk out of
11 their doctors' offices with a prescription for a particular brand of
12 prescription drug, rather than with a prescription for a
13 competitor's product or some other form of therapy that better
14 suits the patient; and

15 WHEREAS, Physicians are under increasing pressure from
16 patients who suspect that Health Maintenance Organization
17 formularies restrict physicians from prescribing the best
18 prescription drugs; and

19 WHEREAS, Direct-to-consumer advertising of prescription
20 drugs forces physicians to spend valuable time defending the
21 reason that an advertised drug is unnecessary or detrimental to
22 the patient's health; and

23 WHEREAS, If a physician declines to issue a prescription for
24 a drug that a patient has seen advertised, the patient may turn to
25 other sources to obtain the drug, including the Internet; and

26 WHEREAS, According to the United States General
27 Accounting Office, the investigational arm of Congress,
28 pharmaceutical manufacturers spent \$1.1 billion in 1997 on
29 direct-to-consumer prescription drug advertising, which
30 increased to \$2.7 billion in 2001, with expenditures increasing by
31 double digits every year; and

32 WHEREAS, Numerous studies have linked the increased
33 direct-to-consumer prescription drug advertising to the
34 exponential growth in prescription drug expenditures; and

35 WHEREAS, In 1997, the FDA relaxed restrictions on the
36 content of direct-to-consumer prescription drug advertising,
37 withdrawing the prior requirement of a summary of side-effect
38 and adverse reaction information and replacing it with a
39 requirement for a statement about "major risks" but not "all

1 risks,” which made television and radio advertisements about
2 prescription drugs more practicable; now, therefore, be it

3 *Resolved by the Assembly and the Senate of the State of*
4 *California, jointly,* That the United States Food and Drug
5 Administration is requested to aggressively monitor and regulate
6 direct-to-consumer advertising of prescription drugs by
7 pharmaceutical companies, pending action by the President and
8 the Congress of the United States to limit, ban, or place increased
9 restrictions on that advertising; and be it further

10 *Resolved,* That the President and the Congress of the United
11 States are memorialized to ban direct-to-consumer advertising of
12 prescription drugs by pharmaceutical companies; and be it
13 further

14 *Resolved,* That the Chief clerk of the Assembly transmit copies
15 of this resolution to the President of the United States, to the
16 Speaker of the House of Representatives, to the Majority Leader
17 of the Senate, to each Senator and Representative from California
18 in the Congress of the United States, to the Secretary of the
19 United States Department of Health and Human Services, and to
20 the Director of the United States Food and Drug Administration.